

### **ARGUMENTS/REMARKS**

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and amended as necessary to more clearly and particularly describe and claim the subject matter which Applicant regard as the invention.

In the specification, titles have been added as requested by the Examiner. Accordingly, the Examiner's objection to the specification should be withdrawn.

Claims 1–10 remain in this application. Claims 11–20 have been previously canceled, and claims 31–44 are herein withdrawn and canceled, and claims 21–30 are herein withdrawn as the result of restriction requirement, and applicant retains the right to present these claims in a divisional application. New claims 45–50 are added without adding any new matter.

First, applicant notes that the restriction requirement issued by the Examiner for claims 21–44 is considered improper, because a restriction cannot be issued merely for adding claims with additional limitations not found in the originally filed claims. However, applicant elects claims 1–10 without traverse to further prosecution of this application.

The Examiner objects to claims 35–44 as being improper for failing to further limit the subject matter of a previous claim. Applicant disputes the objection, because the claims do further limit the parent claim. The claims recite a plurality of hearing devices (whereas the parent claims do not recite such a plurality), and the claims add additional limitations to the relationships between those plurality of devices. Accordingly, the objection should be withdrawn. Furthermore, the objection is moot because claims 35–44 have been withdrawn.

Claims 1 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by Leedom (U.S. 5,825,896). For the following reasons, the rejection is respectfully traversed.

Claim 1, as amended, recites a hearing device that has a “first module” incorporating an electrical power supply unit and an electrical to mechanical converter, and a “second module” incorporating an acoustical to electrical converter and a signal processing unit, wherein “said first and said second modules are adapted to be assembled in a manner that allows for disassembly, such that each one of said modules are replaceable as a unit”. Leedom does not teach such a hearing device.

In particular, Leedom does not teach first and second modules that can be disassembled or replaced as a unit. Instead, if the Examiner argues that portions 32 and 34 are the modules of the claim, applicant notes that these portions cannot be “disassembled” because there is no teaching that the flexible circuit board 12 is adapted to be disconnected. Thus, the portions 32 and 34 are not “replaceable” as a unit, and thus Leedom does not anticipate claim 1. Claim 8, which depends on claim 1, is patentable over the reference for at least the same reasons as claim 1.

Claims 1 and 9 were rejected under 35 U.S.C. §102(b) as being anticipated by Puthuff *et al.* (U.S. 6,021,207). For the following reasons, the rejection is respectfully traversed.

As discussed above, claim 1 requires a “second module” incorporating an acoustical to electrical converter and a signal processing unit. The Examiner appears to be pointing to the cellular telephone 110 of Puthuff as teaching the second module. Claim 1 also recites a “first module” incorporating an electrical power supply unit and an electrical to mechanical converter. The Examiner appears to be pointing to the *wireless* open ear canal earpiece as teaching the first module. However, there is no teaching of these “modules” being adapted “to be assembled in a manner that allows for disassembly, such that each one of said modules are replaceable as a unit”, because the wireless earpiece is never assembled with the cellular telephone 110. In fact, the whole point of a wireless connection is to avoid the need for any physical connection between two devices, and thus the reference clearly teaches away from any “assembly” capability.

Accordingly, claim 1 does not read on the Puthuff reference, and thus is patentable over that reference. Claim 9, which depends on claim 1, is thus patentable over the reference for at least the same reasons.

Claims 1–2, 4–6, and 11 were rejected under 35 U.S.C. §102(b) as being anticipated by Harless (U.S. 4,723,293). Claims 3 and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Harless. For the following reasons, the rejection is respectfully traversed.

Harless does not teach a hearing device, but instead teaches an apparatus adapted for training a plurality of hearing devices (see, for example, the Field of the Invention). The Examiner appears to be arguing that the instructor station 30 is considered the first module of claim 1, and that one of the plurality of hearing devices 35–37 is considered the second module of claim 1. However, the combination of the instructor station 30 and one of the

hearing devices is not a "hearing module" at all, but are actually a training system. Thus, the reference does not teach that for which it is cited.

But even if one were to concede to the Examiner's argument, claim 1 requires that "each one of said modules are replaceable as a unit", whereas the reference does not teach that the instructor station 30 is replacelable as a unit. Thus, the reference does not anticipate this limitation of claim 1. Claims 2-7 and 11, which depend on claim 1, are thus patentable over the reference for at least the same reasons as the parent claim.

Finally, new claim 45 recites a hearing device comprising a first module and a second module similar to the modules recited in claim 1, but also including "means for releasably connecting said first module to said second module, such that each one of said first module and said second module can be replaced as a unit". None of the references teach such a feature, and thus claim 45 is patentable over the references. New claims 46-50 depend on new claim 45, and thus are patentable over the references for at least the same reasons as the parent claim.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 35418.

Respectfully submitted,  
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Date: August 7, 2006